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THE LETELIER DISPUTE: BACKGROUND AND FACTUAL SUMMARY

INTRODUCTION R

On September 21, 1976, Orlando Letelier was assassinated on the streets of Washington, D.C. when a bomb exploded underneath his automobile. Killed along with Letelier, a former Chilean Ambassador to the United States and cabinet member, was Ronni Moffitt, an assistant to Letelier and a passenger in his car. Letelier's second passenger, Ronni's husband Michael Moffitt, was injured by the explosion. What follows is a brief account, as understood by the United States Government, of the events leading up to and following the murder of Orlando Letelier; it reflects information that is available to the United States, which has been presented to United States courts, and which may be presented more fully at an appropriate time. The account is intended as an orienting summary. It is not an exhaustive statement of all of the facts possessed by the United States Government.

The evidence available to the United States shows that senior officials of the Government of Chile planned and participated in the assassination of Orlando Letelier and obstructed, through acts of deception and evasion, efforts to prosecute those individuals responsible for this act.

The United States has substantial evidence in its possession. This evidence includes the confessions and statements of two agents of the Chilean Department of National Intelligence (DINA), Michael Townley and Armando Fernandez, both participants in the assassination of Orlando Letelier, as well as statements by the wife of one of these agents, herself a DINA agent. The evidence also includes statements by Michael Moffitt (the surviving passenger); American investigators of the Letelier assassination, an explosives expert, the Director of the Paraguayan Intelligence Service in 1976, a LAN-Chile (the Chilean national airline) employee, several DINA employees who worked for one of the participant-confessors, an individual connecting a DINA participant to a CNM (Cuban, anti-Castro revolutionary group) participant in the assassination, two Venezuelan intelligence officers, several Chilean military/intelligence officers and two Cuban, anti-Castro revolutionaries.

This testimonial evidence is supported by an extensive collection of documentary evidence. Documentary material corroborating the accounts of the participant-confessors and

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others include telephone records, flight manifests, bills, payment stubs, receipts, photographs, passports, identification cards and documents, simulation film, visa applications, immigration forms, diplomatic cables and various assorted documents. The combination of testimonial and documentary evidence demonstrates that certain officials and employees of the Government of Chile planned and participated in the assassination of Orlando Letelier and the subsequent obstruction of its investigation.

HISTORICAL BACKGROUND

In September 1970, Salvador Allende was elected President of Chile. He chose Orlando Letelier to serve as Ambassador to the United States. Letelier occupied this post in Washington, D.C. for almost three years, returning to Chile to assume the first of several cabinet positions in May 1973. Several months later, in September 1973, Orlando Letelier was arrested by Chilean military officers. Letelier spent twelve months in confinement before he was released and expelled from Chile.

In late 1974, Letelier returned to Washington, D.C. to accept a position at the Institute for Policy Studies. During his time there he developed friendships with two of his assistants, Ronni and Michael Moffitt, and became recognized as an articulate opponent of the Chilean Government. In response to Letelier's activism, the Government of Chile revoked Letelier's citizenship during the middle of 1976.

THE ASSASSINATION: PREPARATIONS AND EXECUTION

The evidence available to the United States indicates the assassination was carried out in the following manner. In late June or early July 1976, Colonel Pedro Espinoza, Director of Operations for DINA, instructed Michael Vernon Townley, an expatriate United States citizen living in Chile, and Armando Fernandez, a lieutenant in the Chilean Army, to participate in a mission, the result of which would be the assassination of Orlando Letelier. Townley had been recruited to join DINA two years earlier and, during the interim, had performed several missions for DINA in the United States and elsewhere, including collaborating with Cuban exile members of CNM in attempted assassinations of Chilean opposition leaders.

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Espinoza and Juan Manuel Contreras, the Director of DINA, ordered Townley and Fernandez to Paraguay to obtain Paraguayan passports and visas under pseudonyms for entry into the United States. After about a week in Paraguay, Townley and Fernandez received the fake documents; however, the U.S. Ambassador to Paraguay, George Landau, became suspicious and photocopied the visa applications and accompanying passports. One week later, having become more suspicious, Ambassador Landau revoked the visas. He also asked Paraguayan officials to retrieve the false passports from Chile. The passports were returned unused, although the photographs were removed.

Despite the problems encountered in Paraguay to obtain false documents, Contreras and Espinoza decided to proceed with the plan to assassinate Letelier. They ordered Fernandez to travel to the United States to surveil Letelier; Fernandez would be accompanied by a female DINA agent using the pseudonym "Liliana Walker." The DINA leaders also sent two other agents, Captains Riveros and Mosquiera, to the United States using Chilean passports bearing the same names as utilized in the Paraguayan visa applicants, with the intention of covering for the failed Paraguayan passport mission. Riveros and Mosquiera entered the United States on August 22, 1976, staying for two weeks. Fernandez and Walker arrived on August 26, using Chilean passports bearing the aliases adopted for the mission.

During August, Espinoza also met with Townley and conveyed orders that the mission was "still on" and that Townley should meet with leaders of the CNM and secure their assistance. Espinoza suggested that Townley should convince the Cubans to kill Letelier and make Letelier's murder look like a suicide or accident. However, Townley was specifically authorized to participate directly and to use a bomb if necessary.

Townley, traveling with a false Chilean passport, arrived at New York's Kennedy Airport aboard a LAN-Chile plane on September 9. He carried with him tri-nitrate of lead and blasting caps. Under the instructions of Colonel Espinoza, Fernandez met with Townley at the airport. Fernandez turned over to Townley a map, Letelier's address, notes, and some cash.

Townley rented a car and drove to New Jersey, where he contacted an old associate, CNM member Virgilio Paz. Through Paz, Townley met the next day with Guillermo Novo and Dionisio Suarez, two leaders of the CNM. At this meeting, Townley asked the two Cubans to cooperate in the Letelier killing. Several days later, the Cubans agreed to participate.

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On the night of September 15, 1976, Townley and Paz drove from New Jersey to Washington, D.C. They carried with them a modified Fanon-Courier remote electronic paging device, plastic explosives and TNT, all supplied by the CNM. For the next two days, Townley and Paz watched Letelier's daily movements. On September 18, Suarez joined Paz and Townley in Washington, D.C., bringing with him the blasting cap used in the explosive device. In Washington, the conspirators purchased baking tins, tape and gloves at a Sears store and a battery pack with leads, slide switches and tools at a Radio Shack store. That night, September 18, 1976, Townley, Paz and Suarez constructed the bomb, and Townley attached the device to the undercarriage of Orlando Letelier's automobile.

On September 19, Townley flew to Newark, New Jersey and was met by Alvin Ross Diaz, another CNM member. Before flying from Newark to Miami, Florida, Townley went to Kennedy Airport and submitted a false immigration form to indicate that the person whose identity he used on entering the United States had departed for Spain. In Miami, on September 20 and 21, Townley met, respectively, with CNM leader Felipe Rivero and Ignacio Novo, Guillermo's brother. On September 21, Townley learned that a bomb had exploded in Washington, D.C. killing Orlando Letelier and Ronni Moffitt and injuring Michael Moffitt. Townley would later learn from Virgilio Paz that the bomb had malfunctioned on the scheduled September 20 attempt and that Paz and Suarez had removed the bomb, corrected the malfunction and reinstalled the device prior to its September 21 detonation. Having "successfully" completed his mission, Townley left Miami on September 22 aboard LAN-Chile and returned to Santiago, Chile.

THE INITIAL INVESTIGATION

The United States Government immediately began investigating the murder of Letelier. The first break in the U.S. investigation was the discovery of the participation of Guillermo Novo, Virgilio Paz, Dionisio Suarez and Alvin Ross and that DINA might also be involved.

During June and July 1977, investigators from the United States Department of Justice and the Federal Bureau of Investigation requested the assistance of the Government of Chile in their investigations of links between the Cubans and Chilean government officials and employees. After a period of delay, the Chilean Government provided a written statement which was misleading at best.

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The U.S. discovered through sources that there was a connection between the Letelier killing and the trip to the United States by two persons using Chilean passports bearing the same names as those who had applied for visas in Paraguay in July 1976. As a result, the United States sent formal Letters Rogatory to the Chilean Supreme Court on February 17, 1978 which requested the Chilean Government to produce for questioning the individuals who had entered the United States using those names.

After the Chilean Supreme Court received the Letters Rogatory, Mosquiera and Riveros appeared to testify in compliance with the Letters Rogatory. However, the Chilean Supreme Court refused to recognize the appearance of Mosquiera and Riveros as compliance with the Letters Rogatory. The U.S. request had included the pictures that Ambassador Landau had photocopied in Paraguay - pictures of Townley and Fernandez. These pictures appeared in the press in Chile. The Chilean Government thereupon produced Townley and Fernandez. Contreras ordered Townley and Fernandez to lie to the Court, suggesting cover-up stories for each of them. In court on March 31, 1978, Fernandez, as instructed, lied repeatedly about his involvement in the events surrounding the Letelier assassination, and Townley, as an American citizen, invoked the privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

On April 7, 1978, Earl Silbert, the U.S. Attorney for the District of Columbia, reached an agreement with Enrique Montero, Chilean Undersecretary of the Interior, whereby Townley was expelled from Chile and returned to the United States. In the United States, Townley refused to talk until he met with Chilean General Hector Orozco, a special military prosecutor conducting an investigation into the matter. After meeting with Orozco and receiving permission to give a statement to the United States authorities, Townley provided the American officials with extensive details of his involvement and that of senior-level Chilean officials in the planning, execution and cover-up of the Letelier murder.

Upon Townley's confession in the United States, Orozco returned to Chile and obtained statements from Fernandez, Espinoza and Contreras concerning their involvement in the assassination. However, after hearing Contreras' statement, Orozco's investigation efforts ceased and he became an active participant in a growing cover-up to mask the roles of Chilean officers in the assassination of Orlando Letelier.

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THE EXTRADITION PROCEEDINGS

On August 1, 1978, a grand jury in Washington, D.C. indicted Contreras, Espinoza, Fernandez and five Cubans with various crimes stemming from their participation in the murder of Letelier. Of the eight persons indicted, Alvin Ross and Ignacio and Guillermo Novo were then in custody; Paz and Suarez were still fugitives, and the three Chileans were in Chile.

The United States issued a formal extradition request for Contreras, Espinoza and Fernandez to the Government of Chile on September 21, 1978. During the next several weeks, Orozco told Fernandez and Espinoza to lie at the extradition proceedings, and caused to be destroyed the truthful statements given by Fernandez and Espinoza several months earlier. President Pinochet also met with Fernandez and told him, "be a good soldier, tough it out and this problem will have a happy end." On October 17, 1978, Contreras, Espinoza and Fernandez lied under oath before the Chilean Supreme Court, providing fallacious cover stories for the trips to Paraguay and the United States. On May 13, 1979, Israel Borquez, President of the Chilean Supreme Court, refused to extradite any of the three Chileans to the United States. On October 1, 1979, the full Chilean Supreme Court also rejected the U.S. extradition request. The Chilean Supreme Court also ordered all Chilean investigations into these matters suspended.

THE CRIMINAL AND CIVIL CASES IN THE UNITED STATES

Following the indictments handed down in August 1978, the United States instituted criminal proceedings against the three Cubans in custody, Ignacio and Guillermo Novo and Alvin Ross. On February 14, 1979, after a six week trial, Ross and Guillermo Novo were convicted of murder and conspiracy, the Novo brothers were convicted of lying to a grand jury and Ignacio Novo was convicted of misprison of a felony. On September 15, 1980, however, a federal appellate court overturned the convictions of Ross and Guillermo Novo on grounds that key evidence had improperly been obtained, and overturned the conviction of Ignacio Novo on the ground that he should have received a separate trial. On retrial, Guillermo Novo was found guilty of lying to a grand jury, and subsequently, Ignacio Novo pleaded guilty to lying to a grand jury.

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Because many of the leading conspirators in the plot to assassinate Orlando Letelier were not brought before a United States court, the United States was severely hampered in its prosecution of the case. The effort to conduct a thorough and fair investigation was met by actions by Chilean government officials which shielded the accused parties from responsibility for their illegal actions.

Also following the criminal indictments, the families of Orlando Letelier and Ronni Moffitt filed a civil suit against the perpetrators of the Letelier assassination, including the Republic of Chile. When all defendants failed to answer, default judgments were entered. However, after Chile sent a diplomatic note contesting U.S. court jurisdiction, the district court agreed to review the jurisdictional issue. On March 11, 1980, the court held that Chile was not immune from the jurisdiction of U.S. courts in the particular circumstances of this case. The Government of Chile failed to appeal the ruling or participate in the trial on the merits. On November 5, 1980, the court entered judgment in favor of the plaintiffs for approximately \$5,000,000, holding the defendants jointly and severally liable. Neither Chile nor the individual defendants appealed.

The families of Letelier and Moffitt then brought suit against LAN-Chile, an airline wholly owned by the Government of Chile, to execute the judgment against the Republic of Chile. The district court ruled in favor of the families, appointing Michael Moffitt as receiver for LAN-Chile's assets. On appeal, however, the federal appellate court held that LAN-Chile's separate juridical existence had to be recognized despite the fact that it was wholly owned by the Government of Chile. The Court stated that the families would have to look directly to Chile to satisfy their judgment. The United States Supreme Court denied certiorari on the judgment-creditors' appeal. Thus, the families of Orlando Letelier and Ronni Moffitt exhausted their legal remedies in the United States in pursuit of obtaining compensation from the Republic of Chile.

RECENT DEVELOPMENTS

In 1985, a Chilean military court granted Contreras' request to dismiss in its entirety the suspended investigation into the Letelier assassination. The Letelier family, a civil party to the suit under Chilean law, appealed this decision. As the appeal was pending, a major development occurred in the case.

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On January 22, 1987, Armando Fernandez voluntarily left Chile and subsequently entered the United States. Fernandez voluntarily turned himself over to United States authorities and agreed to testify fully and truthfully and plead guilty to the charge of being an accessory after the fact to the murder of an internationally protected person. Fernandez' testimony corroborated almost entirely Michael Townley's earlier statements, reconfirming and adding to the extensive body of evidence linking highly-placed Chilean officials to the Letelier assassination and cover-up.

Armed with this new evidence, the United States formally requested the expulsion from Chile of Contreras and Espinoza on May 11, 1987. On May 22, a Chilean military court of appeal reversed the decision of the lower court and ordered that the investigation be returned to the status of "suspended" rather than "closed". However, on June 17, the Government of Chile rejected the U.S. request for expulsion.

On July 17, 1987, the United States sent a diplomatic note to Chile asking the Chilean Government to prosecute Contreras and Espinoza in Chile if it refused to expel them to the United States. On July 28, the United States requested Chile to pay ex gratia compensation to the families of Letelier and Moffitt.

In August, the Letelier family petitioned the lower military court to reopen the investigation. Later that month, the Chilean Government sent two notes to the United States, the first refusing to expel or prosecute Contreras and Espinoza and the second rejecting any form of compensation for the families of the victims. On October 13, the Chilean military court refused to reopen its investigation. The Letelier family once again filed an appeal.

To add to its investigation, the U.S. Government transmitted to the Chilean Supreme Court a Letter Rogatory requesting General Orozco to furnish information about his knowledge of many aspects of the Letelier assassination and cover-up. On April 14, 1988, the Chilean Supreme Court required general Orozco to answer only 12 of the approximately 250 questions put to him. The 12 questions were among the most routine of the questions asked and his answers proved to be minimally informative.

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Due to the virtual exhaustion of domestic legal proceedings both in the United States and Chile and the Government of Chile's continued refusal to cooperate with diplomatic and legal requests for assistance, the United States, in mid-April, formally espoused the claims of its U.S. citizens arising out of the Letelier assassination demanding that the Government of Chile compensate the United States and the families of the victims. On May 24, the Government of Chile formally rejected the U.S. demands.

On May 4, 1988, the Chilean military appeals court upheld the refusal of the lower court to reopen the investigation and the Letelier family again appealed. This last hope of obtaining some cooperation from the Chilean Government was extinguished in July 1988, when the Chilean Supreme Court denied the appeal, affirming the decision to keep the investigation in suspension.

The United States continues to demand that Chile cooperate in bringing this matter to a satisfactory resolution.

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